

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

-against-

JUAN HERNANDEZ,

Defendant.

1:23-cr-110-MKV

ORDER DENYING MOTION
FOR RECONSIDERATION

MARY KAY VYSKOCIL, United States District Judge:

On April 7, 2025, the Court held a sentencing proceeding as to Defendant Juan Hernandez and thereafter entered a consent order of restitution, [ECF No. 467], an additional order of restitution, [ECF No. 468], and the final judgment [ECF No. 469]. Shortly thereafter, Defendant filed an appeal with respect to the final judgement. [ECF No. 473]. Subsequently, Defendant Hernandez has now retained new counsel and filed a motion for reconsideration, [ECF No. 489], with respect to the additional order of restitution entered by this Court and incorporated in the final judgment.

Based on the Court's careful review of Defendant's motion and the representations made by counsel in that motion the Court would be inclined to consider the motion.

However due to Defendant's pending appeal, [ECF No. 472], this Court has been divested of the authority or power to consider such motion. *See United States v. Jacques*, 6 F.4th 337, 342 (2d Cir. 2021) (quoting *Griggs v. Provident Consumer Discount Co.*, 459 U.S. 56, 58 (1982)) ("the filing of a notice of appeal 'confers jurisdiction on the court of appeals and divests the district court of its control over those aspects of the case involved in the appeal.'"). Therefore, the motion for reconsideration is DENIED without prejudice for lack of jurisdiction.

The Clerk of Court is respectfully requested to terminate docket entry 489.

SO ORDERED.

Date: May 16, 2025
New York, NY

Mary Kay Vyskocil
MARY KAY VYSKOCIL
United States District Judge